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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,733	05/14/2001	Peter T. Barrett	14531.95	7869
7590	10/19/2005			
Rick D. Nydegger WORKMAN, NYDEGGER & SEELEY 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			EXAMINER CHANG, SHIRLEY	
			ART UNIT 2614	PAPER NUMBER
DATE MAILED: 10/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,733

Applicant(s)

BARRETT ET AL.

Examiner

Shirley Chang

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2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 13-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 24-50 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/14/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/24/05 5/14/01</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12 and 24-50 are drawn to expansion of records within an EPG responsive for user selection, classified in class 725, subclass 40 and 52.
- II. Claims 13-23 are drawn to insertion of EPG records using predictions based on profile information, classified in class 725, subclass 46. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as expansion of records within an EPG responsive for user selection and invention II has separate utility such as using profiles to predict EPG entries to insert. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Jens Jenkins on 9/27/05 a provisional election was made without traverse to prosecute the invention of expansion of records within an EPG responsive for user selection, claims 1-12 and 24-50. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-23

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withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claim(s) 1-12 and 24-50 is/are rejected under 35 U.S.C. 102(e) as being anticipated over Proehl et al. (6577350).**

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As to claim 1, Proehl discloses:

a method for displaying an electronic program guide to a viewer while television programming is substantially viewable by the viewer, the method comprising: a step of retrieving electronic program guide data from a data source, the electronic program guide data comprising a plurality of data slices representing data related to the programming [3, 27-44];

a step of displaying at least one data slice of the plurality of data slices to the viewer (fig. 8, [6, 47-60]);

in response to a selection by the viewer, a step of expanding the at least one data slice to at least two data slices of the plurality of data slices while substantially displaying the programming to the viewer (figs. 8 and 10; [7, 33-50]).

As to claim 2, Proehl discloses:

each of the plurality of data slices comprises at least one element selected from the group consisting of (i) a programming element, (ii) a channel element, and (iii) a time element (figs. 8 and 10, the time is displayed across the top; [5, 12-20]).

As to claim 3, Proehl discloses:

the step of displaying comprises displaying at least one data slice on a display device (figs. 8 and 10; [7, 33-50]).

As to claim 4, Proehl discloses:

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the data source is remote from the display device [3, 27-44].

As to claim 5, Proehl discloses:

in response to a selection by the viewer, a step of reducing the at least two data slices viewable to the viewer to a single data slice (figs. 8 and 10; [7-33-55]).

As to claim 6, Proehl discloses:

the step of expanding comprises expanding the at least one data slice to a maximum number of viewable data slices of the plurality of data slices (fig. 13; [8, 9-25]; [5, 63-67]).

As to claim 7, Proehl discloses:

the step of expanding comprises expanding the at least one data slice to a number of data slices defined by the viewer ([7, 4-32]).

As to claim 8, Proehl discloses:

the at least one data slice comprises a single programming element, a single channel element, and a single time element (figs. 8 and 10; [5, 12-20]).

As to claim 9, Proehl discloses:

the step of expanding comprises increasing the number of time elements viewable to the viewer (figs. 8 and 10; [7, 33-55]).

As to claim 10, Proehl discloses:

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the step of expanding comprises increasing the number of programming elements, channel elements, and time elements viewable to the viewer (figs. 8 and 10; [7, 33-55]).

As to claim 11, Proehl discloses:

a step of predicting at least one data slice of the plurality of data slices that a viewer is more likely to view at a particular time than others of the plurality of data slices at a particular time ([7, 56-63]).

As to claim 12, Proehl discloses:

a computer product for implementing, in a system that includes a processor and a display device on which television programming can be displayed, a method of displaying an electronic program guide to a viewer while television programming is substantially viewable by the viewer, the computer programming product comprising: a computer readable medium carrying computer-executable instructions for implementing the method, wherein the computer-executable instructions, when executed by the processor, cause the system to perform comprise (IRD 2 [3, 1-10]);

a step of retrieving electronic program guide data from a data source, the electronic program guide data comprising a plurality of data slices representing data related to the programming [3, 27-44];

a step of displaying at least one data slice of the plurality of data slices to the viewer (fig. 8, [47-60]);

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in response to a selection by the viewer, a step of expanding the at least one data slice to at least two data slices of the plurality of data slices while substantially displaying the programming to the viewer (figs. 8 and 10; [7, 33-50]).

As to claim 24,

In a computer system having a graphical user interface including a display device and an input device, a method of providing and selecting from an electronic program guide on the display device, comprising the steps of: (a) retrieving a plurality of data slices for the electronic program guide, each of the plurality of data slices representing data associated with programs that can be viewed upon the display device [3, 27-44];

(b) displaying one of the programs on the display device and concurrently displaying one slice of the plurality of data slices representing data associated with the displayed program (figs. 8 and 10, [6-47-60]; [7, 33-50]);

(c) receiving an electronic program guide selection signal specifying that the number of data slices displayed on the display device is to be changed (d) in response to receiving the electronic program guide selection signal, changing the number of data slices displayed on the display device while continuing to display said one or the programs on the display device (figs. 8 and 10; [7, 33-50]).

As to claim 25,

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each of the plurality of data slices comprises at least one of (i) a channel element, (ii) a programming element, and (iii) a time element (figs. 8 and 10, the time is displayed across the top; [5, 12-20]).

As to claim 26,

the step of changing the number of data slices displayed on the display device comprises increasing the number of data slices on a slice-by-slice basis to a maximum number of data slices (fig. 13; [8, 9-25; [5, 63-67]).

As to claim 27,

the maximum number of slices is definable by a viewer of the display device (fig. 13; [8, 9-25; [5, 63-67]; user decides how many slices to display on the screen by depressing a button [7, 4-32];).

As to claim 28,

the maximum number of slices is definable by the computer system (the system lets the user zoom out a finite number of times [7, 4-32]).

As to claim 29,

the step of changing the number of data slices displayed on the display device comprises decreasing the number of data slices on a slice-by-slice basis [7, 4-32].

As to claim 30,

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a step of changing the number of time elements displayed on the display device [7, 4-32].

As to claim 31,

the step of changing comprises decreasing the number of time elements displayed on the display device [7, 4-32].

As to claim 32,

the step of changing comprises increasing the number of time elements displayed on the display device [7, 4-32].

As to claim 33,

In a computer system having a graphical user interface including a display device and an input device, a method of providing and selecting an electronic program guide in a predictive manner to a viewer by way of the display device, comprising the steps of: (a) retrieving an electronic program guide comprising a plurality of data slices representing a plurality of programs [3, 27-44];

(b) displaying at least one of the plurality of data slices on the display device (fig. 8, [6, 47-60]);

(c) receiving an electronic program guide selection signal specifying that the computer system is to predict at least one program of the plurality of programs that a viewer is more likely to watch at a particular time than others of the plurality of programs at the

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particular time (d) in response to receiving the electronic program guide selection signal, predicting the at least one program of the plurality of programs that the viewer is more likely to watch; (e) in response to predicting the at least one program of the plurality of programs, displaying at least one data slice representing the at least one program to the viewer using the display device [7, 56-63];

As to claim 34,

the displaying step comprises: (a) based on the step of predicting, inserting at least one data slice representing the at least one program into one or more display screens associated with the electronic program guide [7, 56-63];

(b) in response to input from the viewer selecting a particular one of the one or more display screens, displaying the selected display screen, including the at least one data slice, to the viewer using the display device (fig. 8, [6, 47-60]).

As to claim 35

A method for displaying to a viewer an electronic program guide containing data representing broadcast programming, the displayed data capable of being varied based upon selections of the viewer, the method comprising: a step of retrieving electronic program guide data from a data source, the electronic program guide data comprising a plurality of data slices representing data related to the broadcast programming for a plurality of time periods [3, 27-44];

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a step of displaying the electronic program guide data to the viewer as a single column, the single column comprising at least one data slice of the plurality of data slices for one of the plurality of time periods [fig. 8, [6, 47-60]];

in response to a selection by the viewer, a step of expanding the single column to at least two columns comprising the plurality of data slices for the plurality of time periods (figs. 8 and 10; [7, 33-50]).

As to claim 36,

each of the plurality of data slices comprises at least one element selected from the group consisting of (i) a programming element, (ii) a channel element, and (iii) a time element (figs. 8 and 10, the time is displayed across the top; [5, 12-20]).

As to claim 37. A method as recited in claim 35, wherein the step of displaying comprises displaying at least one data slice on a display device.

As to claim 38,

the data source is remote from the display device [3, 27-44].

As to claim 39,

in response to a selection by the viewer, a step of reducing the at least two columns viewable to the viewer to the single column [7, 4-32].

As to claim 40,

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the step of expanding comprises expanding the single column to a maximum number of viewable columns ([7, 4-32]; fig. 13; [8, 9-25]; [5, 63-67]).

As to claim 41,

the step of expanding comprises expanding the single column to a number of columns defined by the viewer [7, 4-32].

As to claim 42,

one of the plurality of data slices comprises a single programming element, a single channel element, and a single time element (figs. 8 and 10; [5, 12-20]).

As to claim 43,

the step of expanding comprises increasing the number of programming elements, channel elements, and time elements viewable to the viewer [7, 4-32].

As to claim 44,

a step of predicting at least one data slice of the plurality of data slices that a viewer is more likely to view at a particular time than others of the plurality of data slices at a particular time [7, 56-63].

As to claim 45,

A computer product for implementing, in a system that includes a processor and a display device on which television programming can be displayed, a method for displaying to a viewer an electronic program guide containing data representing

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broadcast programming, the displayed data capable of being varied based upon selections of the viewer, the computer programming product comprising: a computer readable medium carrying computer-executable instructions for implementing the method, wherein the computer-executable instructions, when executed by the processor, cause the system to perform comprise: a step of retrieving electronic program guide data from a data source, the electronic program guide data comprising a plurality of data slices representing data related to the broadcast programming for a plurality of time periods [3, 27-44];

a step of displaying the electronic program guide data to the viewer as a single column, the single column comprising at least one data slice of the plurality of data slices for one of the plurality of time periods (fig. 8, [6, 47-60]);

in response to a selection by the viewer, a step of expanding the single column to at least two columns comprising the plurality of data slices for the plurality of time period (figs. 8 an 10; [7, 33-50]).

As to claim 46,

In a computer system having a graphical user interface including a display device and an input device, a method of providing and selecting from an electronic program guide on the display device, comprising the steps of: (a) retrieving electronic program guide data from a data source, the electronic program guide data representing data related to the broadcast programming for a plurality of time periods [3, 27-44];

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(b) displaying the electronic program guide data for a single time period to the viewer as a single column (fig. 8, [6, 47-60]);

(c) receiving an electronic program guide selection signal specifying that the number of time periods displayed on the display device is to be changed [7, 4-32];

(d) in response to receiving the electronic program guide selection signal, changing the number of time periods and the number of columns displayed on the display device (figs. 8 and 10; [7, 33-50]).

As to claim 47,

the number of time periods displayed on the display device is definable by the viewer of the display device (the user determines how many times to zoom out and in [7, 4-32].

As to claim 48,

the number of time periods displayed on the display device is definable by the computer system (the system lets the user zoom out a finite number of times [7, 4-32]).

As to claim 49,

the step of changing the number of columns comprises increasing the number of columns on a column-by-column basis [7, 4-32].

As to claim 50,

the step of changing the number of columns comprises decreasing the number of columns on a column-by-column basis [7, 4-32].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.


- Arsenault et al. (6925650) is directed toward a method and apparatus for automated creation of linking information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Chang whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PATENT EXAMINER
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